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OFFICE OF PETITIONS

In re Application of :
Gohl, et al. :
Application No. 10/811,276 : ON PETITION
Filed: March 25, 2004 :
Attorney Docket No. 1149.1104101 :

This is a decision on the petition filed July 22, 2004, requesting that the above-identified application be accorded a filing date of March 25, 2004.

The application was deposited on March 25, 2004. However, on June 8, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" which stated a filing date was not accorded and that the application was deposited without drawings.

In response, on July 22, 2004, the instant petition was filed.

Petitioner states, "Applicant hereby petitions under 37 § 1.53(e), for the reasons set forth below for review of the determination that drawings are necessary. ... The claims are directed to compositions and methods. The missing drawings were all graphs of data provided within the tables in the Example section. Thus, the drawings only provided a graphical representation of the test data present in the application as filed on March 25, 2004. Therefore Applicant asserts that drawings are not necessary under 35 U.S.C. § 113, and that the Applicant is entitled to the March 25, 2004 filing date."

It is noted that the petition contains statements that drawings are not necessary and the petition is signed by a registered practitioner.

Furthermore, it is confirmed that the nonprovisional application contains a process claim that includes the term "method" in it's introductory phrase and therefore drawings are not required.

MPEP 608.02 states:

"An OIPE formality examiner should not treat an application without drawings as incomplete if drawings are not required. A drawing is not required for a filing date under 35 U.S.C. 111 and 113 if the application contains:

(A) at least one process claim including the term "process" or "method" in its introductory phrase;

Since the claims contain at least one process claim including the term "process" or "method" in its introductory phrase, drawings are not required in order to accord a filing date.

Accordingly, the petition is granted.

As the instant petition was required to accord the requested filing date, the petition fee will not be refunded.

The application will be returned to the Office of Initial Patent Examination for processing with a filing date of March 25, 2004, with zero (0) drawings received on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.



Edward J. Tannouse
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Office of Petitions
United States Patent and Trademark Office